

UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of: Richard H. EBRIGHT
Serial No.: 10/527,559
Examiner: VOGEL, Nancy Treptow
Art Unit: 1636
Filed: August 15, 2005
For: **RNA Exit Channel: Target and Method for
Inhibition of Bacterial RNA Polymerase**

RESPONSE UNDER 37 C.F.R. § 1.116

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 7, 2010

Sir:

At the outset, Applicants thank Examiner Nancy Treptow Vogel for the courtesies extended to Richard V. Zanzalari, Esq. and Richard H. Ebright, Ph.D. during the telephonic interview on September 1, 2010.

In response to the Final Office Action mailed May 11, 2010, Applicants respectfully request that the following amendments be entered.

Substance of the Examiner Interview begins on page 2 of this paper.

Amendments to claims begin on page 4 of this paper.

Remarks begin on page 6 of this paper.

I. Substance of the Examiner Interview

During the Examiner interview held on September 1, 2010, Mr. Richard V. Zanzalari, Esq. (hereinafter “the undersigned”) began by presenting the Applicants understanding of the Examiner’s 35 U.S.C. § 112, first paragraph, written description rejection.

The undersigned presented the Examiner with a proposed amended claim set wherein the subject matter of dependent claim 2 would be introduced into independent claim 1 and the subject matter of dependent claim 7 would be introduced into dependent claim 6.

Examiner Vogel was agreeable to the proposed amendment of claim 1.

Examiner Vogel was not initially agreeable to the proposed amendment of claim 6, indicating that the written description rejection was also based on the “derivative” language recited in claim 6 and 7. Examiner Vogel specifically directed the undersigned’s and Dr. Ebright’s attention to language of claim 6 reciting “...a derivative...*having at least one substitution*, insertion or deletion”, and asserted that the term “substitution can mean anything.”

Dr. Ebright explained to Examiner Vogel that the term “derivative” refers to an altered RNAP that contains an alteration in one specific, well-defined sub-region of RNAP (i.e., in the RNA-exit-channel homologous amino-acid sequence), and that the written description of such is well supported in the specification. Dr. Ebright further explained to the Examiner that the term “*having at least one substitution*” as recited in claim 6 refers to a substitution in this said specific, well-defined sub-region of RNAP, not to a substitution in any part of RNAP.

Dr. Ebright further explained that the invention claimed in claim 1 is directed to an experiment with a bacterial RNAP, and that the invention claimed in claim 6 is directed to the experiment of

claim 1 with the further step of performing a *control experiment* with an altered bacterial RNAP that contains an alteration in the RNA-exit-channel homologous amino-acid sequence.

In view of the explanations provided by Dr. Ebright, Examiner Vogel indicated her further understanding of the invention being claimed in proposed amended claim 6 and instructed the undersigned and Dr. Ebright to submit our proposed amendments in response to the final office action. The Examiner agreed to consider the proposed amendments and, if necessary absent an allowance of the proposed claims, would issue a new non-final office action instead of a final office action.